

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SINGULARDTV, GMBH,

Plaintiff,

v.

ZACHARY LEBEAU and KIMBERLY
JACKSON,

Defendants.

Case No. 1:21-cv-10130

**SUPPLEMENTAL DECLARATION OF PATRIK ALLENSPACH IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION AND, IN THE INTERIM, TEMPORARY
RESTRAINING ORDER**

Pursuant to 28 U.S.C. § 1746, I, PATRIK ALLENSPACH, state as follows:

1. I am a representative of SingularDTV GmbH (“SingularDTV” or the “Company”) and its Resident Signatory.
2. I submit this Supplemental Declaration in support of SingularDTV’s Reply Memorandum of Law in Support of Motion for Order to Show Cause Why Preliminary Injunction Should Not Issue, and as a supplement to my first Declaration submitted on November 29, 2021 (ECF No. 9).
3. Attached as Exhibit 13 is a true and correct copy of the minutes from the September 11, 2018 Board meeting.
4. Attached as Exhibit 14 is a true and correct copy of the minutes from the December 12, 2018 Shareholders meeting.
5. Attached as Exhibit 15 is a true and correct copy of the minutes from the December 12, 2018 Board meeting.

6. Attached as Exhibit 16 is a true and correct copy of the minutes from the December 2, 2019 Board meeting.

7. Attached as Exhibit 17 is a true and correct copy of the minutes from the February 27, 2019 Shareholders meeting.

8. Attached as Exhibit 18 is a true and correct copy of the minutes from the May 2, 2019 Shareholders meeting.

9. Attached as Exhibit 19 is a true and correct copy of the minutes from the May 2, 2019 Board meeting.

10. Attached as Exhibit 20 is a true and correct copy of the minutes from the August 8, 2019 Board meeting.

11. Attached as Exhibit 21 is a true and correct copy of the minutes from the September 24, 2021 Shareholders meeting.

12. Attached as Exhibit 22 is a true and correct copy of the minutes from the May 27, 2021 Board meeting.

13. Attached hereto as Exhibit 23 is a true and correct copy of a May 6, 2021 e-mail from Carl Volz to Zach LeBeau and Kim Jackson, copying Patrik Allenspach, attaching the Alleged Settlement Agreement and Mutual Release entered into between Mr. Arie Levy-Cohen and SingularDTV GmbH on May 6, 2021.

14. Attached as Exhibit 24 is a true and correct copy of the certified translated version of the Commercial Swiss Register.

15. Attached as Exhibit 25 is a true and correct copy of a February 13, 2020 e-mail from Amrita Rizal to Joseph Lubin, Arie Levy-Cohen, and Zach LeBeau. Attached as Exhibit 26 is a true and correct copy of a February 14, 2020 e-mail from Zach LeBeau to Amrita Rizal.

copying Joseph Lubin, Arie Levy-Cohen, Carl Volz, and Kim Jackson. Pursuant to the Court's Order Modifying the TRO (ECF No. 25), I received access to these documents on or about December 3, 2021, which are Company records kept in the ordinary course of business.

16. Attached as Exhibit 27 is a true and correct copy of the May 19, 2021 Invitation to Meeting of the Board to be held on May 27, 2021 sent by Arie Levy-Cohen to all Managing Directors of the Company (the Board).

17. Attached as Exhibit 28 is a true and correct copy of a July 30, 2020 e-mail from Alicja Gniady to Patrik Allenspach.

18. Attached as Exhibit 29 is a true and correct copy of a May 5, 2021 e-mail from Edward Greenwood to Patrik Allenspach, Alicja Gniady, and Judy Wernsing.

19. Attached as Exhibit 30 is a true and correct copy of an April 16, 2021 e-mail from Edward Greenwood to Judy Wernsing and Patrik Allenspach.

20. Attached as Exhibit 31 is a true and correct copy of an April 23, 2021 e-mail from Patrik Allenspach to Zach LeBeau, Joseph Lubin, and Arie Levy-Cohen, copying Carl Volz and Michael Kriak.

21. On March 17, 2021, Edward Greenwood, Breaker LLC's Accountant, sent me an e-mail regarding the Company's financials providing "[i]f you look back in the history of GmbH records, there are interco payable transactions on 15 Jun 2018 and 24 Jun 2019, where we funded Writers Block LLC. The 4'675 was a return of most of the unused funds. You can look back at those transactions to see what accounts were originally debited, but my guess is that it was one of the film investment accounts." Attached as Exhibit 32 is a true and correct copy of the March 17, 2021 e-mail from Edward Greenwood to Patrik Allenspach.

22. On March 18, 2021, I conferred with Mr. Greenwood by telephone, and he informed me that Writer's Block is an entity owned by Zachary LeBeau and was founded for the purpose of forming contracts with writers, alternatively to contracting them through "Writer's Guild." According to Mr. Greenwood, 599 ETH was sent from the Company to Breaker on or around May 4th, 2021 for the purpose of allocating it to Writer's Block.

23. As I stated in my first Declaration (ECF No. 9, ¶ 20), on October 8, 2021, the Company's employees, including myself, were blocked from their SingularDTV e-mail accounts (name@breaker.io) used in the regular course of business. Between December 3, 2021 and the date herein, and pursuant to the Court's Order Modifying the Temporary Restraining Order (ECF No. 25), I was provided partial access to the subject e-mail accounts, but am still missing the following with respect to full administrative control over the accounts (this does not allow me to confirm the job is completed while the completeness check still continues):

- a. Ability to set passwords for all accounts other than my own;
- b. Arie Levy-Cohen's e-mail account, which Defendants' claim they do not have access to because it was not part of a migration performed by DAG Tech in 2019;
- c. Elanie Marais's e-mail account seems to contain no e-mails (neither incoming nor outgoing from her period of employment);
- d. In Martin Trepp's mailbox, I observed that the oldest mail in his inbox was the goodbye mail he sent on or shortly before his last employment day on August August 17, 2019. Similar observation applies to the "Sent Items" folder;

- e. I have recognized on the mailboxes of Amrita Rizal and Martin Trepp that they had a mail-forward implemented to kim@breaker.io which I have removed on December 9, 2021 (Rizal) and December 10, 2021 (Trepp).

24. Over time, the Company has funded Breaker to perform certain services, including the development of video content. One recent example of such funding was the Company's film "Down With The King," which the Company asked Breaker to fund. I have observed that Defendants have marketed the "Down With The King" movie in the Cannes 2021 movie festival, which was marketed after July 2021 and after Zach LeBeau was fired and the relationship with Breaker LLC was terminated.

25. In 2019, the Company started to work on a "business to business" tool for enterprise-level media license fee payments, a type of digital-rights-management platform, called SaaS ("B2B SaaS"). This was an initiative agreed among shareholders and was expected to be a highly profitable initiative.

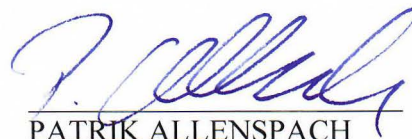
26. The Company's primary strategic direction for the year 2021 was to continue developing SaaS. I was involved in discussions about a 3-year plan with projected investment of \$12m to bring the B2B SaaS to market maturity.

27. The Company had agreed plans to continue development of the B2B SaaS under a new and independent entity in the United States, but is unable to do so at this time due to the breakdown in the Company's operations and availability of funds to develop the project.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 10, 2021,

in the City of Zug, Switzerland



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